THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.115 OF 2007

DATED: 05-01-2007

Between :

P. Srinivasa Rao ..Petitioner

And

State of A.P. rep. by Secretary,
Department of Tribal Welfare,
Secretariat Buildings, Hyderabad
And others. .. Respondents

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ORDER:

The petitioner is appointed as a skilled artisan in the East-Coast Railways in the year 1989 against the Scheduled Tribe quota. Subsequently, he was promoted to the post of Master Craftsman. While so, a letter dated 30-8-2006 was served on him by his employer calling upon to show-cause as to why he should not be dismissed from service with immediate effect on the allegation that he had secured appointment in the Railways under ST quota on the basis of a false community certificate. Aggrieved by the same, the petitioner filed O.A.No.507 of 2006 in the Central Administrative Tribunal, Hyderabad, which was dismissed as premature. The said order of the Tribunal was challenged in W.P.No.19002 of 2006. A Division Bench of this Court by order dated 19-10-2006 set aside the impugned show-cause notice dated 30-8-2006 holding that since the community certificate issued to the petitioner is still subsisting the impugned show-cause notice is without jurisdiction. Accordingly, the writ petition was disposed of leaving it open to the respondents to avail the remedy under the provisions of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act') and the Rules made thereunder for cancellation of caste certificate issued to the petitioner. Subsequently, the Senior Divisional Technical Engineer, Waltair, issued a letter dated 20-11-2006 calling upon the petitioner to attend before the 4th respondent – Director of Tribal, Cultural, Research and Training Institute, Hyderabad

with an elderly member and furnish information about the relatives of his family and also submit documentary evidence to substantiate his social status. The same was reiterated by another communication dated 22-12-2006 issued by the Senior Section Engineer, East-Coast Railways, Visakhapatnam. The petitioner alleges that the Railways (petitioner's employer) have been putting enormous pressure on him to appear before the 4th respondent, though no such procedure is contemplated under the Act or the Rules made thereunder for verification of the caste certificate by the 4th respondent.

Hence, this writ petition seeking a Mandamus declaring that the action of the respondents in directing the petitioner to appear before the 4th respondent as arbitrary, illegal and contrary to the provisions of the Act and the Rules made thereunder and, consequently, direct the respondents not to proceed further with any action in respect of the social status of the petitioner.

I have heard the learned Counsel for the petitioner and perused the material on record.

The learned Counsel for the petitioner vehemently contended that under the scheme of the Act and the Rules, the respondents 3 and 4 have no role to play in the process of verification of caste certificates. At any rate, since a detailed enquiry was already conducted in the year 1997 into the genuineness of the social status of the petitioner it is not open to the respondents to conduct fresh enquiry, particularly the action of the respondents in adopting a procedure contrary to the provisions of the Act and the Rules made thereunder is arbitrary and illegal and, therefore, they shall be restrained to proceed further.

Section 5 of the Act provides for cancellation of false community certificate. As per Section 5 of the Act where a person obtains false community certificate, the District Collector may either *suo motu* or on a reading of complaint by any person call for the record and enquire

into the correctness of the said certificate. On such enquiry, if the District Collector is of the opinion that the certificate was obtained fraudulently he shall by notification cancel the caste certificate after giving the person concerned an opportunity of making representation.

In exercise of the rule making power conferred under Section 20 of the Act, Rules were made under G.O.Ms.No.58, dated 12.5.1997. Rule 9 of the said Rules provides for the procedure to be followed where a compliant is received by the District Collector about the false community certificate. Under sub-rule (1) of Rule 9 of the Rules, on receipt of such complaint the District Collector shall refer the case to the Scrutiny Committee formed under Rule 8 to enquire into the allegations and to send its findings. Thereafter, the Scrutiny Committee shall give a notice in Form-6 to the person involved in the case and then cause an enquiry after collecting documentary evidence about the correctness or otherwise of the allegations. During the said enquiry, the Committee shall also examine the report of the enquiry conducted by the Revenue Department and will also take into consideration the expert opinion from the Commissionerate of Social Welfare/Tribal Welfare through the officers of the Research Organisations of the said Commissionerate who are the members of the Scrutiny Committee, if necessary.

The 4th respondent-the Tribal, Cultural, Research and Training Institute, is an expert body as provided under Rule 8 (d) (7) of the Rules. Hence, the appearance of the petitioner before the 4th respondent is only for the purpose of the expert opinion as provided under the statutory rules and ultimately the scrutiny committee will submit its recommendations to the District Collector on the basis of which the order under Section 5 will be passed.

In the circumstances, it cannot be held that the action of the respondents in directing the petitioner to appear before the 4th respondent is arbitrary, illegal or contrary to the provisions of the Act and the Rules made thereunder.

Hence, the Writ Petition is dismissed. No costs.

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G. ROHINI, J.

Dt. 05-01-2007
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